

REMARKS

Applicants respectfully continue to traverse the claim rejections under 35 U.S.C. §102(e). The Peng reference does not teach or suggest at least one step of the presently claimed invention. Moreover, applicants respectfully submit that the Examiner has not established that the Peng reference even may be considered as prior art to the present application.

As an initial matter, the amendments to the claims are non-narrowing and are submitted to correct typographical errors. The new claims are supported by the original specification.

As stated in a response to a previous Office Action, the present invention contemplates, inter alia, computing remuneration data. The Peng reference, on the other hand, does not so disclose. At most, this reference notes only that “[t]ransaction tracking also facilitates billing by providing a detailed record of each user’s billable activities.” Peng, therefore, purports to teach only a system that monitors a user’s activities, not one for computing remuneration data.

In response to this position, the Office Action states:

However, this is not a limitation of the claims. The applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

The Applicant respectfully submits that the pending claim do include the relevant limitations. For example, the last clause of claim 15 specifies “**computing** remuneration data...” Similarly, claim 18 specifies “**computing means**...” Other limitations relating to computing are specified in the other independent claims in the application (claim 22, “computing means”; claim 23, “computing”; claim 26, “an account register configured to compute”). All of the claims thus recite at least one limitation not set forth in or suggested by Peng.

In addition, it is noted that the present application claims priority to a United Kingdom application filed on June 30, 2000. A copy of the priority application is of

record in the present application. The claimed invention is supported by the priority application; the Examiner is requested to note, for instance, the disclosure of page 6, lines 29-32 of the specification of the priority application. The Peng reference has a filing date of February 1, 2001, which is later than the priority date of the present application, and thus the Peng reference is not, by itself, available for consideration under 35 U.S.C. §102(e).

Peng does claim priority to a provisional application filed in February of 2000. In the Office Action, there is no reference to the purported disclosure of the priority document. The Peng reference is cited against the present application only “if the provisional application properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. § 112, first paragraph.” (M.P.E.P. 2136.03 (III)). It is respectfully submitted that it would be incumbent upon the Office to find support for the rejection in the Peng provisional application if the Office were to attempt to enter a § 103 rejection. Because the Office Action does not rely on the provisional application, nor even refer to the provisional application, the rejection is improper.

Nor does it appear that the Peng provisional application (60/179,761, available via PAIR) can support a § 103 rejection. As will be evident upon a review of the Peng provisional application, this application appears to be a collection of technical literature that bears little resemblance to the issued Peng patent. The undersigned has carefully reviewed the provisional application and does not find specific reference to the “transaction manager module” on which the Office Action relies to support the claim rejections. Peng does make general reference to a gateway for “user tracking info” (see, e.g., p. 57), but this general statement appears deficient to support the claim rejection or to describe the “transaction manager module.” The disclosure of Peng accordingly appears to be unavailable as prior art.

For all these reasons, the rejection over Peng should be withdrawn. Allowance is respectfully solicited.


The commissioner is hereby authorized to charge any fees necessary or credit any overpayment of fees to Deposit account no. 19-0733.

Respectfully submitted,

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